



MOTION PICTURE ASSOCIATION
OF AMERICA, INC.
1600 EYE STREET, NORTHWEST
WASHINGTON, D.C. 20006
(202) 293-1966
FAX: (202) 293-7674

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FRITZ E. ATTAWAY
EXECUTIVE VP GOVERNMENT RELATIONS
WASHINGTON GENERAL COUNSEL

Mr. Rick Chessen
Associate Bureau Chief Media Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: In the Matter of MB Docket No. 02-230 Digital Broadcast Copy Protection

Dear Rick,

This is in response to your question concerning the purpose of Section X.5 of the Compliance Requirements of the proposed Broadcast Flag regulation (Comments of the MPAA, et al., M.B. Docket 02-230, Exh. B (filed Dec. 6, 2002)). Section X.5 provides:

Compliance Requirements for Covered Demodulator Products: Audio. Except as otherwise provided in Sections X.3(a) or X.4(a), Covered Demodulator Products shall not output the audio portions of Unscreened Content or of Marked Content in digital form except in compressed audio format (such as AC3) or in Linear PCM format in which the transmitted information is sampled at no more than 48 kHz and no more than 16 bits.

The effect of this provision is to create an exception to the Compliance Requirements for “CD-quality” audio contained in a digital broadcast television signal – audio of that quality (but no greater) can be output in the clear, even if the rest of the digital broadcast television content must be protected because it is Marked or Unscreened. Some have suggested that this provision is an “oversight” that should be removed if the Broadcast Flag regulation is enacted. See Joint Reply Comments of the National Music Publishers Association, et al., M.B. Docket 02-230, at 12-13 (filed Feb. 19, 2003).

The purpose of Section X.5 is in keeping with the overall goal of the Broadcast Flag solution, which is to help promote the digital transition by ensuring the security of digital broadcast television content while simultaneously causing little or no disruption for consumers. In the case of digital broadcast audiovisual content, the time is ripe for such a solution because of the impending digital transition. Today, there are virtually no devices that connect to digital broadcast receivers via a digital connection. Accordingly, before a legacy of unprotected digital audiovisual outputs is allowed to become established, now is the time to ensure that the next generation of broadcast receivers includes protection for digital broadcast television programs. Note that the Broadcast Flag solution allows the continued functionality of current digital broadcast receivers, as well as devices connected to current

receivers via analog connections, so that no current equipment will “go dark” when the Flag is adopted.

The situation is far different with respect to audio equipment, however. There is already a legacy of millions of devices in the hands of consumers that receive audio content over unprotected digital connections. These devices are not equipped with any decryption capability that would allow them to receive protected (encrypted) digital audio streams. That is why several vigorously negotiated content protection agreements, including the Digital Transmission Content Protection (DTCP) agreements for the 5C technology, the High-bandwidth Digital Content Protection (HDCP) agreement for protection of DVI, the CSS Procedural Specifications for protection for pre-recorded DVDs, and the PHILA, as well as the DFAST license proposed by cable and consumer electronics companies in the Plug & Play proceeding, all allow the output of unprotected CD-quality audio over digital outputs. The Broadcast Flag is intended simply to bring digital broadcast television within these protection schemes, rather than create an entirely new protection scheme that must be built into devices. If the Broadcast Flag regulation did not contain Section X.5, those consumers who have set up “home theaters” by connecting their digital television receivers to their audio equipment via digital audio outputs would suddenly have their audio connections “go silent” when the Flag was implemented. Furthermore, this restriction would apply only to digital broadcast television; the home theaters would continue to work for DVD playback and conditional access programming, a situation that would no doubt confound consumers. In addition to the harm suffered in such case by consumers, consumer electronics and information technology manufacturers would likely object to the elimination of unprotected CD-quality digital audio outputs due to the confusion it would engender about their products.

Section X.5 is a narrowly targeted solution to a current problem. It does not leave all digital audio outputs unprotected: new, higher-quality digital audio formats are becoming available, which because of their higher quality will require protected digital outputs under the Broadcast Flag regulation as well as other content protection schemes. Much like Section X.3(a)(7) and Section X.4(a)(6), which permit low-resolution DVI outputs for legacy computers, Section X.5 allows only for a certain limited type of unprotected digital output in order to handle a specific legacy situation.

I trust the forgoing is responsive to your question. Please let me know if you have any questions.

A copy of this letter is being sent to the Secretary of the Commission for insertion in the record of the above-referenced proceeding.

Sincerely,

A handwritten signature in blue ink, reading "Fred E. Attaway". The signature is fluid and cursive, with a large, sweeping initial "F" and a long, horizontal stroke extending to the right.

cc: Secretary Dortch